

EXHIBIT C

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February 23, 2006

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RE: CSX Transportation, Inc. v. Port Erie Plastics, Inc.
 No. 05-139 Erie


Dear Chuck:

This is a follow-up to our telephone conversation last evening. As I stated then, we agree to stipulate only to the authenticity of Exhibit 4 ("EDI bills of lading produced by Union Pacific").

As I told you last night, I would confer with Rich Parks regarding your modified request for stipulation regarding Exhibit 14 ("8 page fax from Johnson to Parks 6/15/05"). I spoke with him this morning. Our position with regard to Exhibit 14 remains unchanged. We will not stipulate to any matters with regard to this exhibit.

Very truly yours,

MacDONALD, ILLIG, JONES & BRITTON LLP

By 
 Scott T. Stroupe

Charles Howard

From: Charles Howard
Sent: Tuesday, January 17, 2006 12:09 PM
To: 'Richard Parks'
Subject: CSX/Port Erie

I assume you are still waiting to hear from your client concerning his availability for deposition. I have spoken with Steve Bartosik about his availability as well. He is available next week. As soon as we get our witnesses scheduled, I will probably be serving Mr. Bartosik with a depo subpoena and we can work him in as well.

As you recall, I subpoenaed and obtained documents from the Union Pacific Railroad in this case. I'm asking that you stipulate to their authenticity. If you won't enter into such a stipulation, I will have to arrange to depose UP in order to authenticate the docs. We could do that over the phone if you didn't object to a phone depo, or we could all fly to Omaha. Please let me know your thoughts on this matter.

Chuck

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Charles Howard

From: Richard Parks [rparks@mijb.com]
Sent: Thursday, January 19, 2006 2:36 PM
To: Charles Howard
Subject: RE: CSX Port Erie

Ok. I can stip to they "are what they are and come from UP. I have spoken to my client. Witowski and Johnson can both be available for Depos next Thursday or Friday. Let me get my file and see by name who I need on your side.

>>> "Charles Howard" <choward@janssenkeenan.com> 01/19/06 2:11 PM >>>
That's easy. When I served UP with the subpoena, I sent them copies of all of the demurrage bills. UP needed the car number info on the bills to do its research. When UP sent me the documents I had requested, it sent copies of the demurrage bills back to me. On those copies were little "dots" which whoever did the research for UP put next to each rail car for which it found a b/l. There is also handwritten notations on each of the demurrage bills put there by someone at UP which indicates the total number of cars on that bill for which it was able to find a b/l.

You're right that we would not have otherwise sent those bills to UP. We could limit the stip to those docs which have Bates-labeled UP00022 - 00087, which are the print-outs of the b/l. I think the notations on the demurrage bills are helpful in that they allow both of us to identify those cars for which UP couldn't find a b/l. As you can see from the internal UP email chain at UP00088 - 89, UP found b/l's for 115 of the 147 cars at issue.

Chuck

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-----Original Message-----

From: Richard Parks [mailto:rparks@mijb.com]
Sent: Thursday, January 19, 2006 1:08 PM
To: Charles Howard
Subject: CSX Port Erie

I think I am ok with the stipulation as to the authenticity of the Union Pacific documents.

I am however confused how is it that included in the U.P. documents sent by Howard are the invoices that CSX supposedly sent to Port Erie. I don't understand why U.P. would have these. We have these same documents in our possession from other production requests, but I don't know why U.P. would have them. It is my understanding that your client didn't notify Port Erie of constructive placement, I also cannot see how or why UP would have bills? Is that where your client billed because they were the shipper?

Richard J. Parks

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